HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Miscellaneous Appeal No. 26/2007

Appellant : Shri Ram Janki Mandir, Ram Pahadi, Ratanpur, District- Bilaspur (C.G.) Through: Sarverakar Shri Chandrakant Deswhmukh, S/o Shri Dinkar Rao Deshmukh, through Power of Attorney Holder-Mahesh Prasad Dubey, S/o Balbhadra Prasad Dubey, aged 56 years, R/o Mahamayee Para, Ratanpur, Tahsil Kota, District Bilaspur (C.G.)

Versus

Respondents

1. State of Chhattisgarh, Through Collector, Bilaspur, District Bilaspur (Chhattisgarh)
2. Chief Executive Officer, Nagar Panchayat, Ratanpur, Tahsil-Kota, District Bilaspur (Chhattisgarh)
3. Executive Engineer, Public Health Engineering Department, Division-Bilaspur (C.G.)

Miscellaneous Appeal Under Order 43 Rule 1 (r) of the Code of Civil Procedure, 1908.

Present:-
Shri Rajeev Shrivastava, counsel for the appellant.
Shri N.K. Agrawal, Dy. Advocate General for the State/respondents.

ORAL ORDER
(Passed on 25-06-2007)

Heard on admission.

In this appeal, the order dated 20-04-2007 passed by the District Judge, Bilaspur in Civil Suit No. 3-A/2006 dismissing the application under Order 39 Rule 1 and 2 of C. read with Section 151 of C.P.C is under challenge.

2. Learned District Judge, Bilaspur has by a well reasoned order recorded a finding that neither the balance of convenience lies in favour of the plaintiff nor any irreparable loss is being occasioned to

the plaintiff due to the construction of a water tank, garden and barbed wire fencing by the State Government.

3. Having perused the impugned order, I am satisfied that the order rejecting the application under Order 39 Rule 1 and 2 read with Section 151 of C.P.C. is well merited and no interference in this appeal is called for. Consequently, this appeal being devoid of merit is dismissed at the stage of admission.

4. The District Judge, Bilaspur is directed to expeditiously dispose of the suit preferably within a period of 6 months from the receipt of a copy of this order.

5. I.A. No. 1 which is an application under Order 39 Rule 1 and 2 read with Section 151 of the C.P.C. also stands dismissed accordingly.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Kvr